IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2579 of 1985

For Approval and Signature:

HON'BLE MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHRI KIRIT M. SHAH

Versus

THE STATE BANK OF SAURASHTRA

Appearance:

1. Special Civil Application No. 2579 of 1985
Petitioner :: Served
MR AS VAKIL for Respondents

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 14/10/2004

ORAL JUDGEMENT

This petition preferred under Article 226 of the Constitution of India challenges the order of punishment

of compulsory retirement imposed upon the petitioner.

The petitioner, an officer in Junior Management Grade Scale-I in the respondent-State Bank of Saurashtra [hereinafter referred to as, "the Bank"] was alleged to have committed acts of misconduct by making false claim of Transfer Allowance. For the said act of misconduct, a disciplinary proceeding was initiated against the petitioner by issuing a chargesheet on 20th March, 1984. After holding a disciplinary inquiry, the inquiry officer by his report dated 11th March, 1985 opined that the imputation of charge made against the petitioner was proved. Pursuant to the said finding, by impugned order dated 28th March, 1985 made by the disciplinary authority, the petitioner was ordered to be compulsorily retired. Feeling aggrieved, the petitioner preferred departmental appeal before the appellate authority. The appellate authority rejected the appeal. Feeling aggrieved, the petitioner has preferred the present petition.

The present petition had come up for hearing and was allowed by the judgment and order dated 8th February, 1991 [Coram : C.V Jani, J.]. Learned Judge considered the relevant Regulation 68 and observed that the said regulation did not make specific provision requiring the disciplinary authority to supply copy of the report of the inquiring authority before it takes final decision in regard to the charges levelled against the officer/employee concerned. The learned Judge, however, relied upon the judgment of the Hon'ble Supreme Court in the matter of Union of India & Ors. vs. Mohd. Ramzan Khan [1990 (4) JT 456]. Pursuant to the obiter of the Supreme Court that, "the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter", the learned Judge allowed the petition on the sole ground that the disciplinary authority had failed to furnish copy of the inquiry report to the petitioner and that the petitioner had not been given opportunity to make representation against the said report. Feeling aggrieved, the Bank had preferred Letters Patent Appeal No. 189 of 1991. The said appeal came to be allowed by the judgment and order dated 15th December, 1993 [Coram : M/s. B.N Kirpal, CJ., as he then was & M.S Parikh, J.]. The Hon'ble Bench was, following the decision of the Hon'ble Supreme Court in the matter of Managing Director, ECIL Hyderabad vs. B. Karunakar [JT 1993 (6) SC 1], pleased to hold that the

ratio of the decision in the matter of Union of India & Ors. vs. Mohd. Ramzan Khan {Supra} was not to apply to those cases where enquiry proceedings had been completed and decision taken before 20th of November, 1990. As in the present case, the order of punishment was made on 28th March, 1985, the Bench held that, "..the non-giving of the Enquiry Officer's report to the respondent cannot be a ground for vitiating the order of punishment passed against him." Consequently, the Bench set-aside the order of the learned Single Judge and remanded the case for decision on other points. Pursuant to the said direction, the petition is posted for hearing today.

Pending the above referred Letters Patent Appeal No. 189 of 1991, the Bank proceeded further with the inquiry in accordance with the directions issued by the learned Single Judge. The petitioner was given copy of the inquiry officer's report; opportunity to represent against the said report; and of hearing. After following the said procedure, by order dated 4th May, 1991 made by the disciplinary authority, the present petitioner was ordered to be retired compulsorily. The said order dated 4th May, 1991 came to be challenged before this Court in Special Civil Application No. 3340 of 1991. The said Special Civil Application has been heard and decided on all contentions raised by the petitioner on 13th October, 2004.

No other contention except the contentions raised and decided in Special Civil Application No. 3340 of 1991 has been raised in the present petition.

For the reasons recorded in the above referred judgment dated 13th October, 2004 rendered in Special Civil Application No. 3340 of 1991, this petition is dismissed. Rule is discharged. There shall be no order as to cost.

{Miss R.M Doshit, J.}

Prakash*